

1 AMY M. KARLIN (Bar No. 150016)
Interim Federal Public Defender
2 BRIANNA FULLER MIRCHEFF (Bar No. 243641)
(Email: Brianna_Mircheff@fd.org)
3 Deputy Federal Public Defender
RAMANUJAN NADADUR (Bar No. 315718)
4 (E-Mail: Anuj_Nadadur@fd.org)
Research and Writing Attorney
5 321 East 2nd Street
Los Angeles, California 90012-4202
6 Telephone: (213) 894-2911
Facsimile: (213) 894-0081

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8 Attorneys for Defendant
Ruben Cavazos Sr.

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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **WESTERN DIVISION**

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 RUBEN CAVAZOS SR.,

18 Defendant.
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Case No. 08-CR-01201-ODW

UNOPPOSED EX PARTE
APPLICATION TO FILE
APPLICATION FOR REDUCTION
OF SENTENCE PURSUANT TO 18
U.S.C. § 3582(C)(2) UNDER SEAL

1 Defendant Ruben Cavazos Sr., through his counsel of record, Deputy Federal
2 Defender Brianna Fuller Mircheff and Anuj Nadadur hereby apply *ex parte* for an order
3 allowing Mr. Cavazos to file his concurrently lodged application for a sentence
4 reduction pursuant to 18 U.S.C. § 3582(c)(2) under seal. This application is based on
5 the attached memorandum of points and authorities. The Assistant United States
6 Attorney assigned to this case, AUSA Christopher Brunwin, has indicated that he does
7 not oppose the relief requested in this sealing application.

8 Respectfully submitted,

9 AMY M. KARLIN
10 Interim Federal Public Defender

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12 DATED: April 10, 2020

By /s/ Brianna Fuller Mircheff
13 BRIANNA FULLER MIRCHEFF
14 Deputy Federal Public Defender
15 Attorney for Ruben Cavazos Sr.
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INTRODUCTION

Mr. Cavazos seeks to file, *under seal*, his application for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). The motion discusses Mr. Cavazos's plea agreement, the parties sentencing pleadings, and the sentencing hearing transcript, all of which were sealed initially, and the PSR, which was not publicly available either. The reason that these documents were sealed remains intact.

II.

LEGAL ARGUMENT

A. The Court May Seal Its Records To Protect A Party's Interests

A court has supervisory powers over its records and files to seal documents under appropriate circumstances. *See United States v. Mann*, 829 F.2d 849, 853 (9th Cir. 1987); *In re Sealed Affidavit(s) to Search Warrants*, 600 F.2d 1256, 1257 (9th Cir. 1979). Under Local Rule 79-5 of the District Court for the Central District, a party may request the court to seal a document filed with the court.

Although there is a strong presumption of public access to court records, a party desiring to seal a document filed with the court may overcome this presumption by presenting facts known to the court which demonstrate a likelihood of improper use of the material, such as for scandalous or libelous purposes or that its use will infringe upon fair trial or privacy rights. *Valley Broadcasting Co. v. United States Dist. Ct.*, 798 F.2d 1289, 1294 (9th Cir. 1986); *see Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995). A court is to balance the likelihood of improper use with the public's interest in understanding the judicial process to determine whether the presumption of access is overcome. *Valley Broadcasting Co.*, 798 F.2d at 1294. In making its decision, the court must consider all the relevant factors and "base its decision on a compelling reason and articulate the factual basis for its ruling, without relying on hypothesis or conjecture." *Hagestad*, 49 F.3d at 1434.

1 **C. Application**

2 Mr. Cavazos's application for a sentence reduction pursuant to 18 U.S.C. §
3 3582(c)(2) and accompanying exhibits contain nothing of any appreciable interest to
4 the general public. On the other hand, it discusses sensitive information about Mr.
5 Cavazos personally, including the nature of his sentencing agreement, and his current
6 medical conditions. These circumstances support placing the documents *under seal*.

7 **III.**

8 **CONCLUSION**

9 Mr. Cavazos requests that this Court grant his application to file *under seal*.
10 Should the Court deny this application, Mr. Cavazos requests that the Court order the
11 clerk to return the documents to counsel for Mr. Cavazos.

12 Respectfully submitted,

13 AMY M. KARLIN
14 Interim Federal Public Defender

15
16 DATED: April 10, 2020

By /s/ Brianna Fuller Mircheff
17 BRIANNA FULLER MIRCHEFF
18 Deputy Federal Public Defender
19 Attorney for Ruben Cavazos Sr.
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